

INFORMATION LETTER

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DIRECTIVE ASSURES CANS FOR SEASONAL PRODUCTS

WPB Announces New Priority Rules to Govern Container Supply

The War Production Board announced on April 6 that in order to assure an adequate supply of seasonal and perishable food cans in the face of the steel shortage and the pressure of increased military orders for cans to ship products overseas, can manufacturers must observe strictly the manufacturing preference clause of Order M-81. This clause, paragraph (e) of Order M-81, requires each manufacturer to accept first, and treat as if rated AA-5, any orders for cans for specified food products, cans for direct military requirements, and cans for certain biologicals, drugs and medicinals.

At the same time WPB issued Direction 8 to Order M-81, the text of which follows:

Section (a) of Paragraph (e). *Requirements contracts treated as if rated AA-5 under Paragraph (e) of Order M-81.*

Part 1. Regardless of Section 944.8 of Priorities Regulation 1, a requirements contract for any of the three classes of cans listed in Paragraph (e) of M-81 must be regarded by the can manufacturer under Paragraph (e) as an order calling for delivery of cans in the quantities and at the times he reasonably anticipates under the contract based on past experience under the same or similar contracts. (A requirements contract is a contract under which a purchaser of cans agrees to buy his entire requirements of cans from a certain can manufacturer for a stated period without specifying the delivery dates on which the cans will be required or the quantities which will be required.)

Part 2. In accordance with the above rule a can manufacturer must, in scheduling his operations, treat requirements contracts for any of the three classes of cans listed in Paragraph (e) as if they were rated AA-5 to the extent that he can reasonably anticipate quantities and dates upon which deliveries will be required under the contract. He must not wait until he receives delivery orders under such contracts before giving the contracts the preferential treatment described above. Also he must not fill unrated orders for cans if by so doing he will make himself unable to meet deliveries which he reasonably anticipates will be required under the re-

quirements contracts for the three classes of cans listed in Paragraph (e).

Section (b). *Certain items deleted from three classes of orders listed in Paragraph (e) of Order M-81.*

Notwithstanding the provisions of Paragraph (e) of Order M-81, contracts or orders for cans (other than those specifically rated) to pack the following products must not be treated as if they were rated AA-5: Dried beans, with or without pork or tomato sauce (item 26); non-seasonal soups (item 39b); whole hams (item 77); corn beef hash (item 78); chili con carne (item 79); hominy (item 100); codfish cakes (item 101); drugs, medicinals, and biologicals other than those listed in Schedule A. This provision shall not apply to orders for cans to pack products for delivery to the persons listed in Paragraph (e) or to Lend-lease procurement agencies. This paragraph shall not apply to any orders or contracts requiring delivery of cans after September 30, 1945.

Order M-81 also was reissued on April 6 in a form embodying amendments made since it was first issued on (Concluded on page 8587)

Olmstead Sees Food Shortage; Sugar Supply down 7 Per Cent

Testifying before the Senate Food Investigating Committee this week, Lt. Col. Ralph W. Olmstead, Director of Supply in the War Food Administration, stated that because of great increase in wartime requirements serious shortages are developing in meats, fats and oils, dairy products, dried eggs, sugar, and rice.

World production of meats, fats and oils, eggs, and sugar is expected to be smaller than in 1944, while production of dairy products and rice continues at high levels.

As to sugar, 1945 is expected to be the most difficult year of the war, he said, as there is a prospective deficit of 1,700,000 tons in world supplies. The total available supplies for 1945 are expected to be about 11,300,000 tons.

The United States requirements are made up of 5,800,000 tons for civilians and 1,400,000 for military services. This represents a per capita consumption of 83 pounds refined for civilians in 1945, or 7 per cent below 1944, and 14 per cent below the average for 1935-39.

CONGRESS APPROVES CCC FOR TWO-YEAR EXTENSION

Senate Rejects Manpower Report and Asks Further Consideration

The conference report on the Commodity Credit Corporation legislation increasing the borrowing limit to \$4,750,000,000 and extending the life of the corporation two years, was approved by the Senate on Wednesday. The bill now goes to the White House for signature. Features of the legislation were outlined in the INFORMATION LETTERS for March 17 and 31, on pages 8551 and 8573.

The conference report on the proposed manpower legislation, which was approved by the House several weeks ago and which provided for more stringent regulation of available manpower, both men and women, than the Senate version, was rejected by the Senate on Tuesday.

Two factors that apparently influenced the Senate's decision were, first, the intimation given in the report of Mr. Byrnes, War Mobilization Director, that the proposed legislation was designed, not only to mobilize labor for a greater war effort, but also to control labor in the post-war period, and secondly, Mr. Byrnes' resignation as War Mobilization Director.

After the conference report was defeated 46 to 29, the Senate approved a motion by Senator O'Mahoney to seek a new conference looking toward House agreement to the milder Senate version which was passed a month ago. Conferees appointed include Senators Thomas of Utah, Johnson of Colorado, O'Mahoney, Austin, and Burton.

The Senate Foreign Relations Committee reported out favorably H. R. 2013, extending the life of Lend-lease activities, after hearing Administrator Leo T. Crowley of the Foreign Economic Administration state that these activities will be terminated at the conclusion of the war.

The nomination of Fred M. Vinson to be Director of War Mobilization and Reconversion to replace James F. Byrnes, who resigned Monday, was approved unanimously by the Senate on Wednesday.

The report of the Senate Banking and Currency Committee on S. J. Res. 30, extending the life of the Emer-

agency Price Control Act, is still in the hands of the sub-committee and is expected to be reported out next week. An amendment to the resolution was proposed Tuesday by Senators Murray of Montana and Johnson of Colorado, designed to prevent the withholding of subsidy payments as a means of enforcing regulations. The amendment provides:

"(n) No Government officer or agent shall have discretion or authority to deny or withhold payment of sums relating to the production or sale of agricultural or other commodities (including livestock and meat) to any currently eligible person, through Executive set-off for any disputed claim, or as a penalty not specified by statute, or otherwise: Provided, That, this shall not prevent the United States from asserting by suit any right it may have to recover moneys paid, claiming a set-off of such sums in any suit brought by private claimants, or securing injunctions authorized by law."

Insurance of control of the distribution of surplus property by the Surplus Property Board is provided in an amendment to the Treasury and Post Office appropriations bill (H. R. 2252), which passed the Senate late last week. The amendment provides that no part of the appropriation for the Treasury Department surplus property program "shall be available for expenditure unless and until the Surplus Property Board has authorized the Procurement Division to dispose of particular lots or categories of surplus property."

Protectants for Pea Seed

For the third consecutive season, Spergon gave outstanding results as a pea seed protectant in tests recently reported by the New York State Agricultural Experiment Station at Geneva. Although the planting season was so generally favorable to seed germination that seed decay was much less severe than usual, yields were increased by 100 to 900 pounds per acre in different commercial fields by spergon treatment.

In addition to the benefits from control of seed decay, Spergon has been favorably received by growers and canners because it does not require the addition of graphite to facilitate drilling, is cleaner to use than other treatments since it sticks to the seed, and is relatively safe to handle.

During 1942, about 80 to 90 per cent of the commercial acreage in New York was treated with this recently introduced seed protectant. Four other new chemicals proved to be highly effective as pea seed protectants during 1942. Two of these, Arasan used at the rate of 1.0 ounce per bushel and Fermate-graphite used at 2.5 and 1.25 ounces,

were almost as effective as Spergon in preventing seed decay and increasing the yield. Both materials may be needed to supplement Spergon before the war is over.

Varietal and Strain Adaptation Studies of Peas Grown in N. Y.

Changes which occur in processing methods and market requirements of peas necessitate the systematic study of the new varieties developed by the various plant breeding agencies to determine their merits, the New York Agricultural Experiment Station at Geneva reports. Expansion in acreage and the shutting off of European seed sources causing seed shortages have served to emphasize the value of detailed information on possible varieties for substitution.

Of the new varieties of peas tested at the Station, the following show promise for future trials and limited commercial plantings:

Greenland—a vigorous-growing Alaska type, having distinctly larger, more pointed pods and larger peas than Alaska; Early Harvest—resistant to *Fusarium* wilt and is a Surprise-type pea with plants more vigorous and more productive; and Canner King—similar in many respects to Pride, is a midseason sort, stocky, vigorous-growing, producing peas of larger sieve size than Pride and of very satisfactory quality. A comparison of pea varieties grown in 1942 at the Station is given below:

Variety	No. of days to harvest	Plant height Inches	Yield Tons
Alaska.....	57	36	1.16
Greenland.....	59	37	1.19
Surprise.....	59	37	1.32
Early Harvest.....	61	39	1.31
Ace.....	61	45	1.34
Pride.....	68	30	2.41
Canner King.....	69	34	2.48
Ranger.....	73	37	1.92
Perfection.....	73	32	2.36
Atlas.....	74	40	1.60

Lima Bean Seed Decay Control

The severity of seed decay in Henderson bush limas in western New York was determined largely by soil temperature conditions during 1942, the New York State Experiment Station at Geneva states in its Sixty-second Annual Report. In cool, wet soils, untreated seed produced only 3 per cent of a stand in early plantings, while in successively later plantings the same stock produced 27, 52, and 86 per cent of a stand.

Seed treatments prevented much of the loss in the early plantings. Spergon at 3.0 and 1.5 ounces per bushel, Fer-

mate at 2.0 ounces, and Arasan at 1.0 ounce were highly effective, ranking in the order named. In tests on commercial acreage, yields were increased by 100 to 1,000 pounds of shelled beans per acre.

For a 10-cent investment per acre in chemical, returns of \$4 to \$30 an acre were obtained. The only fields that failed to respond to treatments were those seeded when the soil was not too wet and warm.

Pruning Cultivated Blueberries

Experiments were carried out during the seasons of 1939-42 at the South Haven Experiment Station blueberry plantation near South Haven, Mich., to assemble information on the influence of pruning on yield, size of berries, and time of maturity of berries. The results of the studies are contained in Technical Bulletin 192 entitled "Pruning the Highbush Blueberry," published by the Michigan State College at East Lansing.

Asparagus Growing in Michigan

Satisfactory returns to the asparagus grower depend in a large measure on the selection of proper soils and locations, the use of well-grown crowns of satisfactory varieties, a planting program which will insure good stands, and proper cultural and fertilization systems. A recent publication from the Michigan Experiment Station, at East Lansing, (Circular Bulletin 194) entitled "Asparagus Production in Michigan," contains information on these points and others affecting this crop.

Peas Require Nitrogen Fertilizer

The results of experiments conducted by the New York State Agricultural Station clearly indicate that peas require a considerable amount of nitrogen for vigorous productive growth and that inoculation with nitrogen-gathering bacteria does not supply the peas with an adequate amount of nitrogen for maximum yields. Sulfate of ammonia and Uramon proved very effective sources of nitrogen for fertilizing peas but should be used in a balanced ratio with phosphorus and potash for best results.

There is considerable evidence that a satisfactory crop of peas can be produced in spite of root-rot if a well-drained soil is liberally fertilized, whereas the peas would succumb or fail to produce a profitable crop if not well fertilized. A good rotation, good drainage, and good physical condition of the soil are all essential for satisfactory results.

EXCERPTS FROM OFFICIAL SUMMARY OF THE QUARTERLY REPORT MADE BY WAR MOBILIZATION DIRECTOR BYRNES

Lagging production has made it necessary for various conservation measures to be placed into effect to include a reduction in travel, the suspension of racing, a reduction in the use of electricity in night lighting, and the closing of places of entertainment. Temperatures were reduced in public buildings and our people were asked to save coal in their houses. . . . These measures are of an emergency nature, and, with the exception of the travel measure, should be withdrawn on VE Day.

Other measures taken to relieve manpower shortages have included the tightening of draft regulations, the stricter issuance of statements of availability, and increased efforts to divert workers to higher priority jobs. Procedures have been developed to reduce the extent of contracts in effect in tight labor areas.

The employment ceiling program has been pushed. However, the necessary resort to cumbersome procedures in applying the indirect sanctions available to government, prevents this program from being effective promptly in placing workers where needed.

It is clear that we do not have a comprehensive, efficient manpower system. Without such a system, production agencies can not meet their responsibilities. The need for manpower legislation continues. Controls are necessary not only for war production but also for the production of essential civilian goods; and later, to facilitate reconversion.

The need for the consolidation of government agencies is recognized. The report recommends that the President be authorized, in addition to the powers he now has under the Second War Powers Act, to consolidate and transfer government agencies as war functions decrease. Such consolidation and transfers would be permanent unless disapproved by Congress within thirty days after they are made.

Unemployment problems following the defeat of Germany will be temporary in nature. The tremendous backlog of civilian demand, with savings including war bond holdings, at a total of 140 million dollars, should quickly provide employment. The temptation to embark in large public works and other programs designed to provide employment in this period must be resisted as these programs would interfere with war production and reconversion.

The report points out that production controls must be released as promptly as possible to encourage private enterprise to reconvert with maximum dispatch. The War Production Board plans to relax controls, first through the increased use

of "spot" authorizations, secondly through the discontinuance of the Materials Control Plan at an early date with the substitution of a simple priorities plan, and thirdly, the "opening" of the MCP while it is continued.

Limitation orders will be released except as required by continuing shortages such as in textiles, paper and pulp, lumber, leather, containers, and chemicals. The War Production Board is prepared to take prompt actions to prevent the building of excess inventories and to protect small business. War Manpower Commission controls will be continued in all tight labor areas.

When Germany is defeated, we must devote more attention to economy in government. "What is necessary to win the war we will do, and as Christians, humane people, we will gladly do our part to relieve suffering and distress in a war-torn world. However, we must give consideration also to the people who will pay the bills."

The report emphasizes the necessity for continuing price, wage and rationing controls after VE Day. So far, economic stabilization has kept the cost of living from rising excessively. The recommendation in the January report that Congress grant the War Labor Board statutory power to make its decisions enforceable is renewed. In World War I, it rose 62 per cent in 52 months, whereas in this war it has gone up only 29 per cent in 66 months.

The report states that the Director of Economic Stabilization and the Price Administrator have developed a program which is designed, after Germany is defeated, to keep prices in check; to keep consumer buying power under control; to keep corporation earnings under control; to hold wages in check, and at the same time, to establish prices on newly manufactured goods so as to facilitate reconversion.

The report points out that a decrease in food supply in the face of increasing demands makes our situation less favorable in 1945 than 1944. We will not eat as well. However, we will not be hungry and our diet will not be deficient. We must tighten our belts a little. At the same time, we must again call on our farmers for an all-out effort. In this way, we will be able to provide some relief for stricken areas throughout the world without weakening our own military effort and without impairing the health of our civilian population. A proposed reduction in the quantity or quality of the soldiers' ration has been disapproved by the Director.

In discussing construction and public works, the report recommends that private construction be permitted to go

ahead before public construction unless the latter is required to support the war against Japan. Lumber will remain scarce for some months and will prevent large scale production of private housing.

The section of the report on small business points out that small manufacturers should be able to reconvert more quickly than large manufacturers. The War Production Board will see that small business has adequate access to materials. The adoption by the Congress of the Wagner-Spence Bill to amend Section 13b Federal Reserve Act to stimulate loans to small business and extension of the life of the Smaller War Plants Corporation to December 31, 1946, are recommended.

Foreign trade is essential to our own post-war prosperity. Foreign countries have expanded their gold and dollar assets by more than eight billion dollars since 1940. However, their resources are not unlimited and we must be prepared to make loans to those countries where there is reasonable prospect of repayment.

The report recommends favorable consideration by Congress of a broad foreign policy; to include the extension and strengthening of the Trades Agreement Act; the establishment of the International Monetary Fund; approval for the establishment of the International Bank for reconstruction and development; the extension of the authority of the Export-Import Bank to finance our foreign trade; and the repeal of the Johnson Act, prohibiting loans to governments in default on their obligations to the United States. An active foreign trade is necessary if trade at home is to prosper.

The Office of War Mobilization and Reconversion has asked that a special study be made to determine those industries in which hourly wage rates have increased substantially less than the cost of living, and hence any sharp decline in hours worked per week would lower the standard of living. The purpose of this study is to determine the adjustments which can be made in these industries in the framework of stabilization policies.

Other than in such instances, we must wait until we know how much of our war productivity has been carried over into peace-time production before wage rates can be increased. Take-home pay in peace equal to take-home pay now being received, must have as a foundation a volume of production and consumption of civilian goods equal to our present production and consumption.

VE Day will provide no immediate relief in either truck or passenger car transportation. However, a small increase in the basic gasoline ration appears feasible.

The report points out the necessity for a tax structure designed to help

business. It urges that the reports of the Joint Committee on Revenue, Taxation and the Treasury be presented to and receive the consideration of Congress at the earliest possible date. Specifically, the Director renews his recommendations for the acceleration of depreciation allowances; to make available to corporations immediately after VE Day a part of the post-war refund of their excess profits tax and the corresponding reduction in the compulsory savings provisions in the excess profits tax; and an increase in the specific exemption in this tax from the present \$10,000 to \$25,000.

In discussing agriculture, the report refers to the action which Congress has already taken to continue support prices for two years after the first January 1 following the end of the war. It recommends that Congress authorize appropriate administrative agencies to make payments in lieu of support prices when it is determined that such prices are resulting in the accumulation of surpluses.

The enactment of legislation to bring about an orderly expansion of the present school lunch program so that all grade and high school children can participate within the next two or three years is recommended.

The report points out the need for soil conservation and urges that Congress give consideration to this problem. Several agencies within the Department of Agriculture are now authorized to undertake programs of assistance under specific and separate acts of Congress. One program would be better.

The report urges that the government start reducing expenditures for administrative purposes as part of the process of readjustment as soon as Germany is defeated. It recommends that the Director of the Budget be given authority to determine those agencies in which cuts in administrative expenses may be made and the amounts to be covered back into the Treasury.

Cornell Planning Four-year Course in Food Processing

For over a year the Association of New York State Canners through its educational committee has been exploring the possibility of setting up courses of instruction in the technical aspects of canning. Several types of courses have been under consideration, ranging from a two weeks short course to a four-year college course, and have been the subject of discussions with the New York State Department of Education.

At a meeting held in Ithaca on March 13, 1945, the educational committee met with administrative and faculty representatives of Cornell University for discussion of a four-year course in food processing. There was

found to be full agreement that Cornell could provide such a curriculum, the major part of which is already available in subjects offered in various departments of the University. Plans were adopted for drawing up such a curriculum, which will then be further discussed with the educational committee. The objective is to furnish a course in food technology ranking with those now offered in such subjects as science, engineering, and economics.

ODT Outlines 11 Points for Full Freight Car Utilization

Warning that freight transportation is in the most critical condition since the start of the war, the Office of Defense Transportation has called upon the country's shippers for complete utilization of freight cars. The War Production Board, National Association of Shippers Advisory Boards and the National Industrial Traffic League joined with ODT in making the request. Shippers were given 11 specific suggestions for achieving greater car utilization and were asked to review their freight set-ups in order to make additional improvements.

The car utilization suggestions were:

1. Load all cars to capacity.
2. Where practicable, consolidate shipments to utilize car capacity. An example: Accumulate a carload instead of forwarding several separate L.C.L. shipments.
3. Be prepared to adjust loads to utilize different sizes or types of equipment when exact, ideal requirements cannot be met.
4. Order only the number of cars required for immediate loading.
5. Load cars so they can be unloaded from either side; stow and brace shipments in cars carefully so as to avoid damage, thereby making unnecessary the replacement of shipments.
6. Load all equipment immediately after placement and release cars to the railroads, with full and correct billing instructions without delay.
7. Unload cars immediately upon receipt and release to the railroads without delay equipment that is not to be reloaded. Before release, remove all dunnage and debris.
8. Keep in contact with local railroad authorities in regard to switching schedules, etc., and arrange unloading, loading, and billing operations accordingly.
9. Utilize all forms of available transportation.
10. Where practicable, the extra hours offered by Sundays and holidays should be fully utilized to make cars available for release or reloading.
11. Commercial consideration should not be permitted to interfere with efficient use of transportation.

A Revision of Specific Wage Ceiling Regulations Is Issued

Regulations of the War Food Administrator which provide for administration of specific agricultural wage or salary ceilings have been revised and reissued as Specific Wage Ceiling Regulations (Revision 2) effective March 23, 1945.

In this second revision several clarifications have been made in the language of Revision 1 of the regulations, issued October 23, 1944, but the only important changes are:

1. In the procedure for determining violations, a provision is added permitting an alleged violator to make exceptions to a wage board's or examiner's report, prior to a ruling on his case by the Administrator. The provision is that following a hearing and within ten days after he has received a copy, by registered mail, of the board's or examiner's findings and recommendations, the alleged violator may file with the hearing clerk, Office of the Solicitor, U. S. Department of Agriculture, Washington 25, D. C., exceptions or objections, in writing, together with supporting briefs. The regulations continue to grant the alleged violator the right to petition for reconsideration of the Administrator's ruling, within five days after he has received a copy of the ruling by registered mail.

2. A consent order provision has been added which permits an alleged violator, at the Administrator's discretion, to forego a hearing and file with the wage board or examiner an admission of the facts, or at least the material facts, on which the charges against him are based, and agree that an order may be issued against him.

3. Under an amendment to the provision on the effect of unlawful payments, the War Food Administrator is authorized to take extenuating circumstances into account in determining the total amount of payments he will certify for disallowance by other government agencies.

4. Added to the grounds which wage boards may consider in making an adjustment for an employer affected by a specific wage ceiling order is the employer's remoteness from labor supply, lack of housing facilities, or other related circumstances affecting the total compensation of his employees.

5. Hereafter specific wage or salary ceiling orders will be designated as "supplements" instead of "regulations."

Forty-four specific wage ceiling orders (supplements) have been issued to date by WFA's Director of Labor, to whom the Administrator has delegated his farm wage and salary stabilization authority. They apply to workers doing specific kinds of farm work in areas within the States of Florida, Delaware, California, Arizona, Washington, Oregon, and Idaho.

ARMY FOOD REQUIREMENTS 20 PER CENT ABOVE 1944

Patterson Sees Small Hope of Decrease When War is Over in Europe

The schedule of Army food purchases in 1945 is 20 per cent above 1944, according to a statement issued this week by Under Secretary Robert P. Patterson. The composition of the Army's requirements, based on dollar values as of February, is as follows: For Army troops, 62.5 per cent; procured for the Navy, exclusive of direct purchases by the Navy, 5.6 per cent; prisoners of war in United States and abroad, 5.6 per cent; allied troops supplied from U. S. Army stocks, 4.2 per cent; civilians employed by the Army abroad, 1.6 per cent; liberated civilians, 17.7 per cent.

Altogether, according to Under Secretary Patterson's statement, the requirements of the Army food program as revised February 1 total 12 per cent of the nation's allocable food supply, that is, 12 per cent of the supply available for distribution. He further stated:

The possibility of early victory in Europe holds little hope for reduction of Army food requirements during 1945. Computations based on various assumed dates for V-E Day indicate no substantial reduction in net requirements but many shifts among the various types of food required. The problem of feeding civilians in liberated and occupied areas will increase tremendously.

Troops in the European area on V-E Day must still be fed and will require increasing quantities of perishable foods, such as fresh meats and fresh dairy products. As their number decreases through redeployment to the Pacific or return to the United States, the amount of food going to the Pacific will increase.

Although it may be possible to divert some of the combat rations on hand in the European theater at the fall of Germany—such as the "K" or "10-in-1" ration—even these will not be available in sufficiently large quantities to offset materially the large supplies that will be needed elsewhere.

In anticipation of redeployment of troops to the Pacific, the Army must acquire working reserves in that area to take care of the influx of soldiers and it must maintain the troops as they arrive and move into combat. This will call for large quantities of combat rations.

As British troops move into the Pacific, they will draw heavily on resources of British dominions, and it is probable that supplies locally available for U. S. troops will decline. Further, as American troops deploy throughout the Pacific, shipping distances will lengthen and increasing

quantities will be in transit. Both these factors—reduced local overseas procurement and longer shipping distances—will mean somewhat greater demands on U. S. food supplies.

Shipping food of the right types and in the right quantities has become a bigger and bigger task as more and more men have gone overseas and as supply lines have lengthened. . . . The distribution system is like a pipe line. It must be kept filled if the supplies fed in at one end are to be delivered steadily and on schedule at the other. To keep the pipe line filled, the Army must buy food well in advance of the day it will be issued to hungry soldiers.

Food for the Army is bought at procurement depots and Quartermaster Market Centers. To protect against a disruption of supply, working stock levels are maintained in filler depots to supply overseas demands and in regional depots to supply camps within the United States. Filler depots are authorized to carry not more than a 60-day supply and regional depots not more than a 45-day supply.

Wherever possible, as in the distribution of flour, sugar and similar staples, shipments are made directly and continuously from sellers to Army camps. Perishables, such as butter, meats and fresh fruits and vegetables, also are shipped directly to the camps. As a result, for 80 per cent of the food for troops in the United States, supplies at the regional depots have been cut out altogether or are held at a nominal level.

For troops overseas, working stocks must be maintained at filler depots so that ships can be loaded quickly. The food then moves across the ocean to an overseas base depot, and from there to the troops through intermediate depots, each containing sufficient quantities, measured in days of supply, to guarantee an uninterrupted flow of food to soldiers dependent on that particular depot.

By careful housekeeping and through the application of improvements born of experience, the Army during the past two years has steadily reduced the quantities of food carried at the several stopping places along the pipe line. As recently as a year ago, the normal volume of food constantly carried in the pipe line for troops in this country totaled 90 days' supply. This consisted of 30 days' supply carried in camps, 15 days' supply in shipment, and 45 days' supply in depots. Within the past year 15 days' supply has been lopped from this total, bringing the figure down to 75 days' supply.

Similarly, about a year ago a total of 68 days' supply was carried in this country backing up soldiers overseas. The working reserve has now been reduced to 60 days' supply. This figure does not include the volume of food enroute from ports or in the pipe line overseas. These overseas levels, which a year or so ago averaged about 108

days of supply, now have been lowered to an average of about 70 days.

In addition to these working stocks, it is necessary for the Army to carry seasonal reserves to insure supply of such items as canned fruit and vegetables from one packing season to the next. During the canning season, sometimes lasting little more than a month, the Army buys its supplies for the year. These stocks are then stored and their use is spread over a 12-month period.

The Army has no stockpile of food. It does carry minimum working reserves, just as wholesalers and retailers do to assure a steady movement of food to the consumer. It keeps these working reserves as low as possible. They are now so tight that if, on the day Japan is defeated, it were possible to transport to this country all the Army food stocks from all over the world and at the same time entirely demobilize the Army and abandon other military responsibilities for food, the supplies on hand would not be large enough to feed the civilian population of this country for one week.

Six Minnesota Hemp Plants to be Used for Corn Drying

Two southern Minnesota hemp plants have begun corn drying operations as the first publicly-owned war plants converted to a use directly benefiting agriculture, according to a joint announcement of the Reconstruction Finance Corporation and War Food Administration. The plants are located at Bird Island and Jackson. Two other plants, located at Wells and Lake Lillian, were scheduled to begin drying corn this week, and plants at Sherburn and Grove City are expected to be ready soon. Two additional surplus hemp plants in Minnesota are available for similar use.

The plants already have been turned over to a farmers' cooperative association—the Farmers Union Grain Terminal Association of St. Paul—for custom drying of corn owned by individual farmers.

The corn drying operation is a short-term arrangement, officials pointed out, and is too new to permit firm predictions as to the extent to which the Government hemp plants may be used in the future. Some believe it may be possible to use most if not all of the 42 Government hemp plants on a permanent basis for the drying of agricultural commodities. The Government's hemp plants are located as follows: 11 in Minnesota, 11 in Iowa, 11 in Illinois, 6 in Wisconsin, 2 in Indiana, and 1 in Kentucky. (See INFORMATION LETTER for March 10, page 8547, for location of plants.)

Federal Court Holds Canned Foods, Though Truthfully Labeled, Are Misbranded When They Fail to Conform to FDA Standards

In an important recent decision, the legal rule has been announced that canned foods conforming to the Food and Drug Administration definitions and standards of identity but containing additional nondeleterious ingredients which are truthfully stated on the label are held to be misbranded on the grounds that they purport to be the product defined by the standards (*Libby, McNeill & Libby v. United States*) decided by the Circuit Court of Appeals for the Second Circuit, March 8, 1945. The Court followed the decision of the United States Supreme Court in *Federal Security Administrator v. Quaker Oats Company* (see INFORMATION LETTER for March 6, 1943) in declaring that a food for which a definition and standard of identity has been promulgated must conform exactly to that standard or be considered misbranded.

The Food and Drug Act declares that a food shall be deemed misbranded if it "purports" to be a food for which a definition and standard of identity has been fixed but to which the food does not conform. The important issue in the case revolved about the question whether a tomato product which conformed in every respect to the FDA definition and standard of identity for tomato catsup except that it contained a chemical preservative truthfully described on the label "purported" to be standardized tomato catsup, and was therefore misbranded because it did not conform to the standard. The defendant-claimant contended that its product containing the preservative did not "purport" to be the standardized tomato catsup because it was truthfully labeled to show that it was "tomato catsup with preservative." There was no question that the product looked and tasted, and was used as tomato catsup conforming to the FDA standards.

The Court rejected this contention and first declared that the FDA standards would be made futile as they could be avoided simply by adding additional descriptive terms on the label. The Court pointed out that the Supreme Court had declared that the Federal Food, Drug and Cosmetic Act was not confined merely to requiring truthful and informative labeling but, rather, was to provide a method for maintaining the integrity of food products by the promulgation of standards. The Court declared that truthful and informative labeling was permitted or required only where no such standard had yet been established.

The Court said that this reasoning could not be avoided with respect to

a product which looks, tastes, and is used without mention of the preservative in the same way as tomato catsup for which a definition and standard of identity has been established.

The defendant had urged to the Court that the effect of the decision would be to freeze canned foods into their present status and would prevent any future improvement. The Court suggested that this was an argument on the merits of the legislation and regulation which would be properly made to the Federal Security Administrator and to Congress, but not to the Court.

Stricter Enforcement of WPB Fiber Shipping Container Order

Through the issuance of Direction 3 to Order L-317, effective April 4, the War Production Board has taken additional steps to enforce compliance with the order which governs the use of fiberboard shipping containers. The new direction specifies that the packer who did not keep adequate written records of lawful usage of fiber shipping containers in 1944 and 1945 may not accept delivery of new fiber shipping containers for use in packing products in Schedule III of the order until such time as WPB establishes a base quota for him. Official text of the direction follows:

(a) *Record keeping requirement.* A packer must determine his 1944 and 1945 lawful usage of new fibre shipping containers that are subject to the quota restrictions of paragraph (g) or (h) of Order L-317 (in terms of footage and poundage of containerboard) and must preserve for inspection by War Production Board officials, a written record of his figures and work sheets showing how he made his calculations of such 1944 and 1945 lawful usage.

(b) *Prohibition on acceptance of containers where written record is not preserved.* Where a packer has not made and preserved the above-described written record, he must not accept any new fibre shipping containers that will be subject to the quota restrictions of paragraph (g) or (h) until such time as the War Production Board establishes for him in writing his base period usage of such containers (in terms of footage and poundage of containerboard).

(c) *Establishment of base period usage by War Production Board pursuant to appeal.* A packer may make application for the establishment of such base period usage by filing a letter pursuant to the provisions of paragraph (q) (1) of Order L-317 with the Containers Division, War Production Board, Washington 25, D. C. A packer

must include in such application his best estimate of the new fibre shipping containers (in terms of footage and poundage of containerboard) he used in 1944 and 1945 for each class of products listed in Schedule III and for wholesale and retail deliveries (as defined in paragraph (b) (4) of all listed and unlisted products. A packer's usage for each Schedule III class of products must be listed separately. A packer must show all the facts upon which his estimate of such usage is based.

Parity Gains; Farm Prices Drop

Parity prices of farm products reached a new 25-year high on March 15, the United States Department of Agriculture has reported. Prices received by farmers declined 1 point during the month ended March 15 to 108 per cent of their 1909-14 average, and averaged 114 per cent of parity, down 2 points from a month earlier. Increases in prices of articles purchased by farmers for production and for family living raised the parity index (prices paid, interest, and taxes) from 172 on February 15 to 173 on March 15. A year ago, the parity index was 160.

For the second consecutive month, truck crop prices dropped sharply. This month, the 20 point downturn was more than enough to offset slight increases in prices of many other farm crops. The all crops index of 196 for March 15 was 1 point lower than February and 2 points below a year ago. Indexes of fruit prices at 211 per cent of their 1909-14 average and oil bearing crops at 215 were unchanged from a month earlier. Tobacco prices were off 1 point to 359. However, 2 point increases raised the feed grain and hay index to 160, cotton to 163, and food grains to 171.

Canned Milk Statistics

Following the trend which has prevailed for the past 12 months, the estimated production of canned evaporated milk for February at 255,500,000 pounds was 22 per cent higher than in the same month last year and 29 per cent higher than the 5-year (1939-43) February average, the U. S. Department of Agriculture reports. Sweetened condensed milk at 8,550,000 pounds for February, was 9 per cent less than a year earlier.

Manufacturers' stocks of canned evaporated milk totaled 122,546,000 pounds on February 28, a decline of 17 per cent from a year earlier. Canned condensed milk stocks of 6,559,000 pounds were 7 per cent higher.

WAGE AND HOUR ADMINISTRATION ANNOUNCES BROADER DEFINITION OF PRODUCTION OF GOODS FOR COMMERCE

On March 13 the Wage and Hour Administrator announced an interpretation of the meaning of "production of goods for commerce" to include employees engaged within a State in the production of goods which will be used within the same State in connection with interstate commerce. This broadened interpretation will become effective for enforcement purposes on April 15, 1945.

The Wage and Hour Act defines production of goods for commerce as including not only the work done on the goods themselves, but also work in any process or occupation necessary to the production of the goods. Thus, it has been held that maintenance employees in office buildings that house businesses which are producing goods for interstate commerce, are covered by the Act because the maintenance of the building is necessary to the production of the goods.

Until this recent interpretation the Administrator has held that activities involving the production of items which are consumed in a State are not covered where the products do not go into interstate commerce. For example, it has been ruled that persons who manufacture crushed rock produced in the State and consumed in building construction or ready-mixed concrete consumed in building construction are not covered if the product does not cross the State line.

The new interpretation is said to be based on recent decisions that ice manufactured in a State and sold to interstate carriers for preserving purposes is "goods" and is a necessary part of transportation so that the ice factory employees are covered by the Wage and Hour Act.

This principle has been broadened in the recent interpretation to state that employees working on goods which are produced and consumed in the same State are covered, even though the goods do not cross the State line, if the consumption of the goods occurs in connection with the carrying on of interstate transportation or communication or in the maintenance, repair or reconstruction of essential instrumentalities of commerce. Essential instrumentalities are said to include factory buildings, warehouses, machinery and other facilities used in producing the goods that move in interstate commerce. It therefore would seem under this new interpretation that, for example, if a canner employed a contractor to repair his plant or warehouse, the contractor would become subject to the Wage and

Hour Act on the ground that the contractor's employees are engaged in a process necessary to the production of goods for commerce. Likewise, if a canner himself undertook such construction, the employees engaged in that construction would seem to be covered. However, maintenance of warehouses and machinery have previously been ruled to be necessary to production of goods, so that this interpretation does not appear unduly to affect canners.

Sales of Government-owned Foods Reported for February

Sales of government-owned surpluses of canned food items and dry beans and peas for February amounted to \$711,400. About 98 per cent, or \$702,179, of the sales, consisted of dry beans and peas, canned peas, evaporated milk, green beans, and tomatoes. Items sold and the sale price follow:

Commodity	Quantity Cases	Price
Apricots.....	453	\$906
Beans, green.....	33,379	80,690
Peas.....	54,272	124,659
Tomato paste.....	717	1,746
Tomatoes.....	16,000	38,544
Milk, condensed.....	1,593	6,659
Milk, evaporated.....	41,925	98,327
Pounds		
Dry beans.....	2,800,000	\$186,016
Garbanzos.....	3,306,900	173,943

Social Security Act Does Not Apply to Contract Fishermen

In a recent case, the Federal District Court for Washington held that Alaskan fishermen who under the Alaskan fishing practice sold fish to an Alaska packing company were independent contractors who were not subject to the Social Security Act (*Emard v. Squire*, 58 F. Supp. 281, D.C. W.D. Wash.).

The case arose by a suit by an Alaska fish packer against the Collector of Internal Revenue to recover taxes paid by the company on the amounts of money paid by the company to the fishermen. The only question in the case was whether these fishermen were employees or individual contractors.

The Court reviewed in detail the arrangement by which the company obtained fish from the fishermen and pointed out that the company's fishing contracts, which were negotiated with the Alaska Fisherman's Union, did not provide any right for the fish packer to direct the fishermen where, how, or when to fish. In addition, compensation of the fishermen was based on the

number of fish caught and delivered to the packer. The Court concluded on common law principles, which were held controlling, that the fishermen under the particular contracts involved were not employees and therefore were not subject to the Act.

WSA Names Successful Bidders

Awards to successful bidders on 11 fishing vessels and trawlers on which invitations to bid were issued February 8, have been announced by the War Shipping Administration. The vessels were offered for sale by sealed public bids on an "as is, where is" basis, subject to the terms of sale as provided in Public Law 305. Successful bidders are:

Mr. and Mrs. Charles W. Wells, Southport, N. C.; The Fish Meal Co., Beaufort, N. C.; Tom Ozio, Morgan City, La.; Dupuy's Shipyard, Inc., New Orleans, La.; E. G. Russ, Shalotte, N. C.; Rene J. Chermie, Cut Off, La.; and W. G. Wells, Southport, N. C.

Emerson Heads OES Legal Staff

Thomas I. Emerson, Deputy Administrator for Enforcement of the Office of Price Administration since late in 1943, has accepted an appointment as general counsel of the Office of Economic Stabilization, William H. Davis, OES director, has announced. Mr. Emerson will begin his new duties immediately.

Mr. Emerson joined the legal staff of OPA as associate general counsel in June, 1941. In February, 1943, he took direct charge of the enforcement activities in OPA, becoming Deputy Administrator for Enforcement in the fall of that year.

Publication on Advertising Laws

The Department of Commerce has announced the publication of "State Advertising Legislation," a comprehensive compilation of the laws of the several States and the District of Columbia governing advertising. This 300-page publication, prepared by Burt W. Roper, legal analyst of the Bureau of Foreign and Domestic Commerce, is designed to provide small businessmen—and larger ones, too—with an integrated compilation of the growing body of State advertising legislation.

Copies may be had on request from the Department of Commerce, Washington 25, D. C., or any of its field offices as long as the limited supply lasts. Additional copies may be obtained from Printers' Ink Publishing Co., Inc., New York City, at nominal cost.

OPA Announces Raw Product Costs for Frozen Spinach

Raw material costs to be used by freezers in figuring dollar-and-cent ceiling prices for their sales of frozen spinach grown in 1944 and later seasons have been announced by the Office of Price Administration. At the same time, OPA said provision has been made for processors' ceiling prices for frozen spinach to be figured by the formulas used since January 2, 1945, for 44 other frozen fruits, berries and vegetables. (See INFORMATION LETTER for December 30.)

The action was taken in Amendment 5 to Supplement 6 to Food Products Regulation 1, effective April 4.

The raw material costs processors of frozen spinach may reflect in their ceiling prices follow:

Area	Price Per ton
New York and the following counties in Pennsylvania: Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Potter, Tioga, Bradford, Susquehanna and Wayne, cut above crown.....	\$34.00
Virginia, Maryland, Delaware, New Jersey, and all counties in Pennsylvania not listed above, cut below crown.....	70.00
Wisconsin, Illinois, and Indiana, cut above crown.....	32.00
Texas, Oklahoma, Arkansas, Louisiana, Mississippi, and Tennessee, cut above crown.....	70.00
California, uncut in the field.....	22.50
Oregon and Washington, cut above crown.....	50.00

WFA Offers Dealers Dry Beans

The War Food Administration is making available to dry bean dealers, who supplied pinto beans to Federal government agencies, approximately 10,000,000 pounds of dry pinto beans for distribution to domestic consumers. These beans are not surplus, it was explained, but are being released from government stocks to relieve the acute shortage of beans in civilian markets.

The beans to be released will grade U. S. No. 2 or better, and are being offered at \$6.15 for U. S. No. 1 beans and \$6.00 for U. S. No. 2 beans, per 100 pounds net weight, bagged, f.o.b. car present location, plus freight from the original country shipping point to the present location.

Michigan Taxes Bean Stocks

The Michigan Legislature has enacted a law placing a tax of 2 mills per 100 pounds on grain (wheat, oats, corn, rye, barley, buckwheat, flax, soybeans, dry edible beans and field peas) when owned or held by dealers, processors, or

warehousemen, but excluding such grain when owned or held for seed purposes. The tax will be assessed as of April each year, except in cities where a different date is fixed by charter for the assessment of personal property. Proceeds from the tax are to be distributed to the same taxing units and in the same proportion as the general personal property taxes.

Dry Bean and Dry Pea Stocks

A survey of stocks of dry beans and dry peas made by the Crop Reporting Board of the U. S. Department of Agriculture indicates that on March 1, 1945 there were 823,000 bags of dry beans (uncleaned) on farms and 3,481,000 bags (cleaned) stored in the usual commercial storage places and under War Food Administration storage contracts in or near producing areas. On the same date there were 323,000 bags of dry peas uncleaned on farms and 4,082,000 bags in usual commercial and WFA storage places in producing States. Estimated stocks do not include beans and peas already in direct consumption trade channels.

1944 Beet and Carrot Packs

The canned beet pack in 1944 totaled 7,700,878 actual cases as compared with 6,603,598 in 1943, according to figures compiled by the Association's Division of Statistics. The 1944 canned carrot pack was 2,490,589 cases as compared with 2,513,196 in 1943. Converted to standard cases of 24 No. 2's, the 1944 beet pack was 7,593,904, and the carrot pack 2,444,782 cases.

The following table shows the pack of each product by States and sizes of containers:

	BEETS							
	Tin				Glass			
	No. 2 Cases	No. 2½ Cases	No. 10 Cases	Misc. Cases	16½ Cases	Other Cases	Total Cases	
New York.....	596,947	197,517	642,152	105,747	529,292	27,956	2,099,611	
Maryland.....	151,631	5,737	81,057	.....	.....	.....	238,025	
New Jersey.....	61,977	19,035	32,756	44,503	.....	.....	158,271	
Indiana.....	.....	.....	.....	.....	35,720	32,047	372,639	
Michigan.....	106,967	20,384	177,321	.....	702,321	12,744	2,856,377	
Wisconsin.....	967,901	357,521	750,070	65,820	.....	.....	32,937	
Utah.....	25,208	.....	7,719	.....	.....	.....	1,556,078	
Oregon.....	376,296	.....	465,085	.....	716,697	.....	84,698	
Washington.....	8,452	.....	10,724	20	42,418	3,084	300,652	
Other States.....	228,961	40,296	90,515	.....	21,928	8,952	.....
Total.....	2,524,540	640,400	2,235,599	216,090	2,048,370	84,782	7,769,878	

	CARROTS							
	Tin				Glass			
	No. 2 Cases	No. 2½ Cases	No. 10 Cases	Misc. Cases	16½ Cases	Other Cases	Total Cases	
New York.....	42,618	.....	113,012	.....	16,972	.....	172,602	
Maryland.....	45,572	.....	36,954	.....	.....	.....	72,526	
Michigan.....	25,441	.....	55,180	.....	.....	.....	80,621	
Wisconsin.....	161,979	.....	142,544	744	36,553	.....	341,820	
Utah.....	27,864	.....	51,332	.....	25,136	.....	104,332	
Oregon.....	149,654	.....	381,072	14,086	563,226	3,500	1,111,547	
Washington.....	25,352	.....	36,869	.....	3,808	.....	66,119	
Other States.....	289,354	9,398	209,219	25,656	7,395	.....	841,022	
Total.....	767,834	9,398	1,016,182	40,486	633,180	3,500	2,490,589	

OPA Issues Soybean Ceilings

The Office of Price Administration has announced ceiling prices to be used at the beginning of the 1945 crop year for raw, unprocessed soy beans.

The prices, listed in a notice to growers, are \$2.10 a bushel for the U. S. No. 2 grade, classes 1 (yellow) and 2 (green), and \$1.90 a bushel for the No. 2 grade, classes 3 (brown), 4 (black) and 5 (mixed). The quotations are for 60-pound bushels.

OPA stipulated that the same differentials for grade and quality may be applied as were provided for the 1944 crop.

Soybean Support Program

Stabilization Director Davis has issued a directive (No. 39) approving the projected price support and subsidy program for the 1945 soybean crop. The War Food Administration is authorized to carry out through the Commodity Credit Corporation a program by which the CCC will make loans to and purchases from soybean producers and will absorb part of the amount by which maximum prices on soybean products do not reflect the support prices to producers.

Mexican Pineapple Crop Large

Pineapple growers in Loma Bonita, Oaxaca, and Isla, Vera Cruz, principal producing regions of Mexico, are making preparations for harvesting the largest crop in history, according to the Department of Commerce. Trade reports in Loma Bonita estimate the yield at from 20,000 to 25,000 metric tons. Preliminary estimates place production in Isla at about 24,000 metric tons.

Treatments for Spinach Seed

The standard treatment for spinach seed, Red Cuprocide (used at 1.5 per cent) is no longer available because all supplies of red copper oxide are being used for painting ships. Other treatments, such as zinc oxide (Vasco 4 and AAZ Special used at 1.5 to 2.0 per cent) are becoming scarce, so tests were made at the New York State Agricultural Experiment Station at Geneva in 1942 with various substitutes.

The Station reported that outstanding results were secured with Arsan at 1.0 per cent, Fermate at 1.5 per cent, Spergon at 1.5 per cent, Yellow Cuprocide at 0.5 to 0.75 per cent, and copper oxychloride-sulfate at 1.0 per cent. It is of considerable interest, in view of the copper shortage, that the substitution of Yellow Cuprocide and copper oxychloride-sulfate would effect a saving of 40 to 50 per cent in copper without endangering the crop.

In a fertile, muck field where untreated seed produced a crop of 10 tons per acre, various treated lots produced 16 to 22 tons. An investment of 25 cents an acre for chemicals produced a return of \$150 to \$295 an acre.

Canned Poultry Statistics

The quantity of poultry canned or used in canning during February was the largest for any one month of the past two years, the Bureau of Agricultural Economics has reported. On a dressed weight basis, the quantity totaled 16,390,000 pounds compared with 13,686,000 pounds in February last year and 15,449,000 pounds in November, 1944, the previous record high quantity canned during the past two years. All poultry now being canned is being set aside for the exclusive use of the Armed Services.

1945 Cabbage Acreage Drops

A 1945 cabbage acreage of 7 per cent less than was harvested in 1944, but about 20 per cent above the 1934-43 average, is indicated by early reports on plantings and intentions to plant, the Bureau of Agricultural Economics has announced. The reports cover the entire 1945 season except the relatively small acreage in the late fall group.

Winter cabbage acreage was reduced 20 per cent this year from 1944; Spring acreage was reduced about 5 per cent, with all of the reduction in the late Spring States; Summer acreage also is expected to be down about 5 per cent, with the late Summer group ac-

counting for most of the decrease; and the early Fall Danish acreage is indicated to be about 3 per cent less than in 1944. Early Fall domestic, on the other hand is expected to exceed the 1944 harvested acreage by 11 per cent. These estimates include acreages from which processors of sauerkraut will obtain supplies for their 1945 operations, BAE said.

Ceilings on Imported Olive Oil

A price of \$4.30 per gallon, cost and freight, has been fixed by the Office of Price Administration as the maximum price United States importers can pay for olive oil. This price applies to shipments arriving at the first U. S. point of port of arrival.

The action, effective March 24, in Amendment 44 to Maximum Price Regulation 53, applies to all grades of olive oil imported into the United States, but the price does not include war risk, or marine insurance or U. S. duties, OPA said.

In addition, contracts accompanied by unexpired irrevocable letters of credit having definite expiration dates for the purchase of olive oil at a higher importing price than established by the amendment are exempted from compliance with the regulation if the contracts were entered into before the issuance date of this action.

WFA Flaxseed Support Program

Details of the War Food Administration's 1945 price support program for flaxseed follow:

The base support prices for No. 1 flaxseed of the 1945 crop will be:

\$3.00 per bushel for U. S. No. 1 flaxseed at Minneapolis, Red Wing, Milwaukee, Chicago, and Portland; \$3.20 per bushel at Los Angeles and San Francisco; \$2.85 per bushel at Emporia or Fredonia, Kansas; \$2.80 per bushel at Corpus Christi, Harlingen, and Houston, Texas. Prices for No. 2 flaxseed will be 5 cents per bushel less.

These prices represent increases over 1944 support prices of 5 cents per bushel in the Northwest and of 20 cents per bushel in California. These support prices are now 10 cents per bushel below the respective ceiling prices.

Loans on flax also will be available to farmers.

Glass Containers Essential

Production of all types of containers has been classified as essential in the War Manpower Commission List of Essential Activities (WMC Item 27B, issued March 19, 1945), the War Production Board told the Glass Container

Manufacturers Industry Advisory Committee at a recent meeting. Previously, production only of containers for products on the WMC Essential List was classified as essential.

In a discussion of the operation of Order L-103-b, governing glass containers and closures, members of the committee expressed the opinion that the order was working well and did not recommend any revisions at this time. By using reject material as well as prime steel for closures and crowns, the glass container industry will be able to meet its requirements fairly well with present allocations of metals, WPB officials said.

WFA to Buy Evaporated Milk

The War Food Administration has announced that it will accept offers for the sale of canned evaporated milk. Offers must be submitted under the terms of Announcement Awd-452 beginning April 9, so as to be received by the Contract Development Section, Procurement and Price Support Branch, Office of Supply (CCC), War Food Administration, Washington 25, D. C., not later than Monday of each week.

Imported Blueberry Ceilings

Importers of straight-pack, frozen wild blueberries processed in Canada or Newfoundland may not pay more than 24 cents a pound, duty paid and f.o.b. any United States port or point of entry, the Office of Price Administration has announced. The action was taken in Amendment 4 to Supplement 6 to Food Products Regulation 1, effective April 4. Prior to this amendment, OPA said, large commercial, industrial and institutional users were able to buy frozen blueberries direct from the foreign processors without ceiling prices.

WFA Increases Beef Set-aside

War Food Administration has increased the set-aside of Utility grade beef to 80 per cent from the current 70 per cent in a move to provide the armed forces with more canned meats. Effective April 1, the action taken by Amendment 21 to WFO 75-2 applies to all packers operating under federal inspection.

The increase in the percentage now makes the set-aside of Utility grade beef equal to the set-aside of canner and cutter grade beef. The set-aside of canner and cutter beef has been at 80 per cent since October 15, 1944.

REVIEW OF DECISIONS OF EMERGENCY APPEALS COURT IN THE FIVE CASES INVOLVING THE PRICING OF MEATS

Five related decisions by the Emergency Court of Appeals on attacks against the validity of price regulations for beef affirmed the "industry earning standard" and the "product standard" for determining whether ceiling prices are generally fair and equitable (see INFORMATION LETTER for February 9, 1945, for definition of these standards) and held in two cases that the Price Administrator had failed properly to apply these standards in two particular situations.

The issues of interest that were decided by the Court in these cases concerned the validity of the industry earnings and products standards as applied to the price regulation for beef; the question whether compliance with the industry earning standard alone is sufficient for validity of a price regulation; and, finally, whether the statutory requirement that ceiling prices for processors of agricultural commodities shall allow a generally fair and equitable margin for processing imposes a requirement in addition to the overall provision that ceiling prices be generally fair and equitable.

One question which has up to this point been undecided was whether a ceiling price is generally fair and equitable if a subsidy paid by another agency must be used to pay for costs not reflected in the ceiling price. The OPA in defending the validity of the meat regulation, which employs a subsidy as a fundamental part of the beef pricing system, relied heavily upon the fact that subsidies were provided and paid by the Reconstruction Finance Corporation. While no issue was raised that the price regulation was invalid because the producer had to obtain a subsidy from another agency, the failure to raise this issue and the Court's detailed discussion of the use of the subsidy as part of the pricing system strongly suggests, in view of recent Congressional approval of subsidies, that a pricing method is valid even though it relies upon the use of subsidies to maintain production and pay production costs while preventing these costs from being passed on to the consumer.

The cases decided by the Court on March 29 involved four separate situations. The first was an attack on the general validity of the meat regulation (*Armour & Company v. Bowles*, No. 101). The second involved an attack by Armour & Company on the validity of prices for meat sold to the Government for the armed forces. (*Armour & Company v. Bowles*, No. 96.)

The third situation involved an attack by non-processing slaughterers (meat producers who sell 98 per cent or more of their slaughter in the form of carcasses and wholesale cuts) against the meat regulation on the grounds that as to them the regulation did not meet their costs and therefore was not generally fair and equitable (*Heinz Abattoir*). The fourth situation concerned an attack on the validity of the meat regulation on the grounds that it discriminated unfairly in favor of producers selling to hotels and restaurants (*Oscald and Hess Co. v. Bowles*).

First Armour Case

The attack by Armour & Company on the general validity of the meat regulation was based on the cost accounting system used by the company and meat packers generally. These packers who produce both processed meats and fresh meats employ customarily a cost accounting system known as the "cut-out method." This method uses an historical allocation of costs between the fresh meat obtained from a carcass and the by-products obtained from the carcass. Under this accounting method the company had for a number of years (since 1937) shown losses in its sale of fresh beef and profits on its by-product operations. These losses had very substantially increased since the advent of price control. The company contended therefore that the regulation was not fair and equitable.

On the other hand, the Administrator contended that this method of cost accounting was simply a bookkeeping operation and that the only test whether the price regulation was valid was the overall profit position of the industry. The Price Administrator showed that the returns of the industry as a whole had risen from 4 per cent during the 1936-1939 base period to 14.1 per cent on net worth in 1942, and that the company's overall profits before taxes had risen from \$9,500,000 in 1936-1939 to \$36,000,000 in 1943.

After a detailed discussion of the reasons for the meat subsidy program and of the cost accounting system used by the meat packing industry, the Court concluded that there was evidence supporting the Price Administrator's conclusion that the cut-out cost accounting method was not "an acceptable yardstick for determining whether the regulation establishes generally fair and equitable maximum prices." The Court, however, rejected the Price Administrator's contention that, because of ac-

counting problems, the only standard for determining the validity of the price regulation is the overall profit position of the industry.

The Court pointed out that both the industry earning standard and the product standard had been explained to and approved by Congress. The Court explained that these two standards having been approved by Congress had to be applied even though cost accounting difficulties might make the actual application of the product standard difficult. The Court explained the two standards in this language:

"Under the industry earnings standard adopted by the Administrator, as a general rule, price increases are allowed to compensate for those cost increases which the industry cannot absorb without impairment of its normal peacetime earnings. Even though a price increase is not required under the industry earnings standard, an increase may be required under the so-called product standard, which is used as a secondary pricing guide in the case of multiple-product industries. Under this standard, unless it has been the industry's practice to sell some of its products below cost, the Administrator considers himself required to increase the maximum price of any particular product sold by the industry, 'if its current maximum price should fail to cover the out-of-pocket costs incurred by the highest-cost firms which are not included in the industry's high-cost marginal fringe.'"

In rejecting the Price Administrator's contention that the accounting difficulty of applying the product standard made it proper to rely only on the overall industry earnings standard as a test of the validity of the ceiling prices, the Court stated that this—

"would be saying in substance that the Administrator has power to subsidize the consumer in his purchases of beef to the extent that the present over-all profits of the industry are above those of the base period. There would be no legal limitation to the extent to which the Administrator could depress prices of a given commodity so long as the industry as a whole maintained its base period earnings."

The Court then concluded that on the basis of the product standard it was shown that the particular product, that is, the fresh meat operations under another method of accounting held to be reasonable, not only returned out-of-pocket costs to the company but made a substantial contribution to the general overhead expenses of the company applicable to its entire operations.

The Court in this Armour case specifically passed upon an argument made from time to time that the provision in the Stabilization Act requiring that a generally fair and equitable

margin shall be allowed for processing, imposed another requirement in addition to the provision that prices be generally fair and equitable. The Court declared that this processing provision contained in the Stabilization Act has very little legislative history, and that what legislative history there is shows that it was merely a restatement of the already existing requirement that prices be generally fair and equitable. The Court said this provision "did not modify the basic statutory standard . . . that maximum prices must be 'generally fair and equitable,' which would naturally mean that the prices established must allow a generally fair and equitable margin." The Court said this requirement is met for a particular product if the prices established for a particular product produced by an industry producing many products is enough to allow the recovery of out-of-pocket costs for the individual product.

Heinz Abattoir Case.

The decision of the Court in the Armour case leaves the implication that, in a multiple-product industry, the application of the product standard to an individual producer who produces only one item only permits that producer to obtain out-of-pocket costs and no more. This implication was answered by the Court in the Heinz case which involved the validity of the meat regulation as applied to non-processing slaughterers. These slaughterers are, unlike the large meat packing companies, producers which do not process any by-products of their slaughter. These non-processing slaughterers produce approximately 15 per cent of the total national cattle slaughter. The main ground of the protest by the non-processing slaughterers was that the cost of live cattle had risen to a point that the slaughterers were squeezed by the meat ceiling prices and were forced to produce at a loss.

The non-processing slaughterers, although recognized as a special and important segment of the industry, were not given special treatment in the price regulation but were given an additional special subsidy in place of fixing higher ceiling prices.

The Court declared that the regulation would be invalid as to the non-processing slaughterers if the regulation did "not afford a sufficient margin for profitable operation by this the most numerous group in the industry." The Court said that while the Act does not guarantee a profit to each individual producer, this does not mean that "the Administrator can ignore the disastrous effect of the regulation upon a whole group of producers constituting an im-

portant segment of the industry who, because of the nature of their operations, have a common economic situation that sets them apart from the rest of the industry."

The Court then reviewed the effect of the operation of the special subsidy given to the non-processing slaughterers and concluded that even with this subsidy these slaughterers were forced by the regulation to operate at a loss. The Court therefore held the meat regulation invalid as to these producers.

Shortly after this decision, and partially as a result of the current Senate food shortage investigation, proposals to correct this regulation were studied and the Court was asked by the OPA and meat slaughterers to vacate its judgment. This was done on April 2.

Other Cases

In the second Armour case (No. 96) involving prices for government sales, the Court held against the OPA and ruled that on the basis of the products standard, Armour was not receiving out-of-pocket costs on its government sales and was entitled to an adjustment.

The OPA was sustained by the Court in the Hess case where the Court held that the meat regulation did not discriminate unfairly in favor of the producers selling to hotels and restaurants.

NEW WPB ORDER M-81

(Concluded from page 8577)

January 1. Among changes relating to various products are:

Under Vegetable and Vegetable Products the words "Frozen vegetables may be used" have been added to item 30 (Peas and carrots) and item 32 (Mixed vegetables). The words "From fresh vegetables" have been added after item 39a (Seasonal soups).

Under Miscellaneous Food Products, the packing quota of hominy was reduced from 50 per cent to 25 per cent of 1941, and the quota of codfish cakes from 50 per cent to 35 per cent of 1941.

The Association plans to mail copies of the revised order to canners as soon as they are available.

New Diseases of Cherries

The possibility that a new disease of Montmorency cherries in New York, called "pithy cherry," may be caused by boron deficiency in the soil is suggested in a report published in the February 7 issue of the Plant Disease Reporter. Extra borax was applied in experiments in 1943 and 1944 and no symptoms of the trouble were ob-

served where the trees had received this treatment.

Wisconsin Study Endorses Use of Graded Sweet Corn Seed

At the recent schools for canners' fieldmen in Wisconsin, a statement on "Effect of Size of Seed on Rate of Development and Uniformity of Hybrid Sweet Corn" was released by R. H. Andrew of the College of Agriculture, University of Wisconsin. The statement follows:

Some seed companies do not grade sweet corn seed because it means there will be some small seeded lots and some large seeded lots. Farmers may object to planting the small grades because they feel they will give poorer germination and less hardy plants and hence graded seed simply adds to the canners' contracting problems. However, we feel it is best to plant graded seed with appropriate planter plates to help insure a uniform stand which in turn aids uniformity of maturity. On the other hand it is extremely difficult to obtain uniform planting rates with ungraded seed. Some hills will receive 3 or 4 kernels, but others will not get any or will get more than 4. Corn planted too thin results in advanced maturity. When planted too thick it matures later. Since the whole field is snapped at one time variable maturity due to a variable stand increases the waste. There is no point in buying well bred seed and then planting it carelessly.

Work at the University over a period of three years shows that under favorable germinating conditions the small grades of seed do as well as the larger grades. Every kernel, large or small, in hybrid sweet corn seed is inherently alike and should perform alike. Conceivably in a long cold spring the endosperm reserves of small seeds may not be sufficient to get the young seedling established. Generally all grades will perform alike. So purchase graded seed and plant the large grades first and the small grades later.

Rates of planting for sweet corn have not changed in the State. Canners check corn 3 or 4 plants per hill, in rows 3 or 3½ feet apart; or drill it in rows 3 to 3½ feet apart with the plants about 9 inches apart within the rows. More fertile soil supports closer planting.

Plant seed which has been treated with a reliable fungicide as insurance against seedling blight. It is a good plan to submit samples of your sweet corn seed to the State Seed Laboratory, Agronomy Building in Madison, for germination tests. This service can be secured for 25¢ per sample. A cup to a cup and a half of seed, depending upon the size of seed, is sufficient for a test. In average years sweet corn seed should germinate 90 per cent or better.

WFA Restores Grower Support Prices on Snap Beans for Canning

An increase in the grower support price of green and wax beans for canning from a previously announced national average of \$85 to \$91 per ton has been announced by the War Food Administration to encourage further production. The new price, on a national average basis, restores all of the \$6 per ton decrease (compared with 1944) announced February 14, 1945. (See INFORMATION LETTER for February 17).

With minor exceptions, the new prices for all varietal types of snap beans are equal to or higher than the comparable 1944 prices. Prices are

established on the basis of varietal types, with price differentials favoring the varietal types producing better quality for canning. The program provides for all purchases of pole varieties to be on a graded basis at grade prices to be announced by State Agricultural Conservation Committees.

The new field run area schedule of snap bean grower support prices by varietal types becomes effective May 1, 1945, and is as follows; the price basis is in dollars per ton delivered at canneries or to customary assembly points:

States	Pole varieties ¹	Bush varieties		
		Refugees (green and wax)	Rounds ² and all Wax ³	Flats and Black seed Round ⁴
Md., Del., Pa., Va.	\$105.00	\$97.50	\$92.50	\$85.00
New Jersey	105.00	97.50	90.00	90.00
Maine, N. H., Vt., Mass., R. I., and Conn.	105.00	95.00	90.00	90.00
New York	105.00	110.00	100.00	90.00
Wisc., Ind., Mich., Ohio, Mo., Ill., Neb., Minn., Iowa	105.00	90.00	80.00	70.00
Calif., Wash., Oreg., Idaho, Utah, Mont., Wyo., Nev., Colo., and New Mexico	110.00	85.00	80.00 ⁵	80.00
Other States	105.00	85.00	80.00	80.00

¹ All poles shall be purchased on a graded basis as announced by State Agricultural Conservation Committees.

² Except black-seeded varieties and Refugees.

³ Except Refugees.

⁴ Except Wax.

⁵ In Washington and Oregon the price for Wax beans is \$105.00

Correction in Kraut Cabbage and Carrot Designated Prices

The designated grower price for carrots grown in Pennsylvania for canning is \$20 per ton, or the same as for 1944, and not \$22 as erroneously reported in last week's INFORMATION LETTER, and in the tentative announcement of designated prices at the N.C.A. Planning Committee meeting, February 5.

The Office of Price Administration points out that sauerkraut packers will not be permitted to reflect a maximum of \$22 per ton for cabbage grown for kraut as permitted in 1944. The designated price of \$15 per ton for cabbage for kraut will be used as the maximum raw material cost in determining canners' ceilings for canned sauerkraut and there will be no provision for a reflection in ceilings up to \$22 per ton as was reported in error in Footnote 4 to the list of designated prices published in last week's INFORMATION LETTER.

Freezing Injury of Vegetables

Information on how to protect fruits and vegetables against freezing, or to care for them and determine whether they are usable after they have frozen, is contained in Circular 713, published by the U. S. Department of Agriculture.

Observations were made on the market, and through experimental investigations conducted at controlled temperatures. The products studied include apples, asparagus, lima beans, snap beans, beets, cabbage, carrots, corn, peas, peppers, spinach, tomatoes, and others.

Refrigerator Car Order Revoked

The Interstate Commerce Commission has notified all railroads that Taylor's ICC Order 219 has been revoked, effective April 10. This order placed certain restrictions on the movement of canned foods in refrigerator cars.

New Association Members

The following firms have been admitted into membership in the Association since March 10, 1945:

Alabama Products Canning Co., Inc., Roanoke, Ala.

Craddock Canning and Preserve Co., Paducah, Ky.

K-B Products Corp., Coxsackie, N. Y.

Kadota Fig Association of Producers, Merced, Calif.

R. W. Jones Canning Co., Arlington, Ind.

Michigan Food Products Co., Dundee, Mich.

Patrick County Canning Co., Stuart, Va.

F. H. Snow Canning Corp., South Gouldsboro, Me.

United States Products Corp., Ltd., San Jose, Calif.

Lee A. Taylor to Join the Empire State Pickling Co.

Lee A. Taylor, who joined the Association's staff as secretary of the Planning Committee last October, has resigned effective May 1, to become assistant to the president of the Empire State Pickling Co., Phelps, N. Y., and to have charge of the sales department of the Phelps and Manchester plants.

Besides serving as secretary of the Planning Committee, Mr. Taylor has been handling the work on 1945 manpower problems, and plans for the recruitment program are in large measure completed. Arrangements are being made for continuance of this work. The Planning Committee is expected to meet this month to consider the development of the 1945 production program.

Mr. Taylor will take with him to his new position the best wishes of both the staff of the Association and the canners throughout the country, who know him as a loyal, efficient worker.

Advertising Kit for Labor Recruitment Being Prepared

The Association, in cooperation with the War Manpower Commission and the Office of War Information, is preparing an "advertising kit" to be distributed to canners and allied industries as a basis for the labor recruitment campaign for 1945 operations.

To assist in carrying out this program of labor recruitment on the local level, the Office of War Information in cooperation with the War Manpower Commission has prepared a "Plan Book" to assist the various interests in laying out their plans and publicity programs, especially where advertising departments and agencies are involved. The "Plan Book" will serve as a guide in the development of recruitment projects, media to be used, etc. Copies are being distributed to all WMC offices, can manufacturers, advertising agencies, and to secretaries of State canners association.

The entire program is being laid out so as to give the various interests the facts on the problems involved thus enabling them to secure greater uniformity in advertising plans of the processing industries and the agencies that they are employing.